

REMARKS

The present Response is intended to be fully responsive to the rejections raised in the Office Action, and is believed to place the application in condition for allowance. Furthermore, the Applicants do not acquiesce to any portion of the Office Action not particularly addressed.

In the Office Action, the Examiner noted claims 1-34, 36-38, 40-43 and 45 are pending and stand rejected. The Office also noted that claim 13 stands rejected under 35 U.S.C. § 112, claims 1-10, 12-19, 21-31, 33-41, and 44-45 are rejected under 35 U.S.C. § 102(e), and claims 11, 20, 32, 42, and 43 are rejected under 35 U.S.C. 103(a). As set forth above, claims 1, 7, 8, 13, 18, 24, and 30 are amended. Claims 5, 6, 17, and 29 are cancelled without prejudice.

In view of the foregoing amendments and the following discussion, the Applicants submit all of the claims now pending in the application are definite under the provisions of 35 U.S.C. § 112, novel under the provisions of 35 U.S.C. § 102(e), and are not obvious under the provisions of 35 U.S.C. § 103. Thus, the Applicants assert all of these claims are now in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

A. Claim Rejection under 35 U.S.C. § 112 – Claim 13

Claim 13 stands rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 13 has been amended to clarify the language contained therein.

Thus, the Applicants respectfully request the present rejection under 35 U.S.C. § 112 be withdrawn and the claim be allowed.

B. Rejection under 35 U.S.C. § 102(e) – Claims 1-10, 12-19, 21-31, 33-41 and 45

Claims 1-10, 12-19, 21-31, 33-41 and 44-45 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,801,931 to Ramesh, et al. (hereinafter “Ramesh”). The Applicants respectfully traverse this §102 rejection. Claims 5, 6, 17,

and 29 are cancelled without prejudice. In view of the foregoing amendment, rejection of claims 5, 6, 17, and 29 is now moot.

Claims 1, 8, and 24

The Applicants remind the Office "[f]or a prior art reference to anticipate in terms of 35 U.S.C. Section 102, every element of the claimed invention must be identically shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677, 7 U.S.P.Q.2d 1315, 1317 (Fed. Cir. 1988; *emphasis added*). The disclosed elements must be arranged as in the claim under review. *See Lindemann Machinefabrik v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). If any claim, element, or step is absent from the reference that is being relied upon, there is no anticipation. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986; *emphasis added*).

Independent claim 1, as amended, recites:

"[a]n electronic message configured to be communicated between a sender's device and a recipient's device, the electronic message comprising:

an attached sound file; and

an attached predetermined identifier associated with the sound file, the predetermined identifier comprising:

a distinguishing indication configured to distinguish the sound file from other files attached to the electronic message; and

a course of action indication configured to indicate a course of action to be taken by the recipient's device with the sound file, the course of action indication comprising an information tag;

wherein based on the course of action indicated by the predetermined identifier, the recipient's device is configured to selectively convert a content of the electronic message from text to voice using at least one of the sound file and a locally stored voice sample; and

wherein the recipient's device is configured to selectively play at least one of the sound file and the converted content of the electronic message."

As can be readily discerned from the amended independent claims 1, 8, and 24 the claimed “predetermined identifier” comprises “distinguishing indication configured to distinguish [a] sound file from other files attached to [an] electronic message” and a “course of action indication configured to indicate a course of action to be taken by the recipient’s device with the sound file.” In making the § 102 rejection, however, the portions of Ramesh upon which the Office relied teach the contrary. To this end, the Applicants note the Office cited to Ramesh, at col. 2, lines 21-23, in support of its contentions. This portion of Ramesh states a “set of basis vectors associated with a predetermined human speaker is additionally attached to the message payload.” According to Ramesh, however, “the speech parameters associated with a particular speaker will hereafter be referred to as “a set of basis vectors.” (see col. 2, lines 54-56) (emphasis added).

In view of the foregoing definition, Ramesh clearly indicates the “set of basis vectors” are defined as the speech parameters associated with a particular speaker. The Applicants therefore respectfully disagree with the Office’s contentions that the “set of basis vectors” disclosed in Ramesh anticipate the claimed “predetermined identifier.” One embodiment of the present invention, the “predetermined identifier” as claimed in independent claims 1, 8, and 24, comprises a “distinguishing indication configured to distinguish the sound file from other files attached to the electronic message” and “a course of action indication configured to indicate a course of action to be taken by the recipient’s device with the sound file.” Ramesh, on the other hand, merely discloses a set of speech parameters representative of the voice of a predetermined human speaker.

As disclosed in Ramesh, the set of speech parameters for a particular user, or “basis vectors,” are used to synthesize a text portion of a message. The Applicants respectfully submit that an attachment of speech parameters for a particular user for synthesizing portions of text, or “basis vectors,” in no way teaches, suggests, or discloses attaching the claimed “distinguishing indication configured to distinguish [a] sound file from other files attached to [an] electronic message” nor do “basis vectors” disclose, teach, or suggest the claimed “course of action indication configured to

indicate a course of action to be taken by the recipient's device with the sound file." Further, the Applicants respectfully submit that an individual's speech parameters do not constitute an indication distinguishing an audio file from other files, nor do they constitute an indication of a course of action. A "basis vector" or individual's speech pattern is merely a set of data reflecting the speech patterns of an individual user. The Applicants respectfully submit that speech data does not teach, suggest, or disclose either a distinguishing indication or a course of action indication, as disclosed in independent claims 1, 8, and 24.

Further, embodiments of the present invention disclose "a selective announce system for announcing the receipt of electronic mail and instant messages." *See* Abstract. To the contrary, Ramesh discloses a system and method of communicating an electronic message over a wireless communications network comprising transmitting and receiving an electronic message and a set of basis vectors at a wireless communications device, the set of basis vectors comprising speech parameters representative of the voice of a predetermined human speaker. *See* Ramish, Claim 1. The Applicants respectfully submit that nothing in Ramish teaches, suggests, or discloses the claimed distinguishing indication and course of action indication.

Ramesh therefore fails to teach, disclose, or suggest the "predetermined identifier" recited in independent claim 1, comprising "distinguishing indication configured to distinguish [a] sound file from other files attached to [an] electronic message" or a "course of action indication configured to indicate a course of action to be taken by the recipient's device with the sound file." Rather, as discussed *supra*, Ramesh discloses a "set of basis vectors." Thus, the functions carried out by Ramesh fail to read on the claimed element of a predetermined identifier.

In light of the foregoing, the Applicants submit that Ramesh fails to disclose, teach, or suggest at least one element of the independent claims 1, 8, and 24, and as such, fails to anticipate the independent claims 1, 8, and 24 under 35 U.S.C. § 102(e).

Claims 2-4, , 7, 9, 10, 12-19, 21-23, 25-28, 30-31, 33-34, 36-38, 40-41 and 45 are dependent, either directly or indirectly, upon independent claims 1, 8, and 24 and thus,

necessarily include all of the elements of independent claims 1, 8, and 24. Accordingly, for at least the same reasons, Ramesh fails to anticipate each of the dependent claims 2-4, 7, 9, 10, 12-19, 21-23, 25-28, 30-31, 33-34, 36-38, 40-41 and 45 and under 35 U.S.C. § 102(e), as well.

Based on the arguments presented above, withdrawal of the 35 U.S.C. § 102(e) rejection of claims 1-10, 12-19, 21-31, 33-41 and 45 is respectfully requested.

C. Rejection under 35 U.S.C. § 103(a) – Claims 11, 20, 32, 42 and 43

Claims 11, 20, 32, 42 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramesh in view of United States Patent No. 6,085,231 to Agraharam, et al. (hereinafter “Agraharam”). The Applicants respectfully disagree. Claims 11, 20, 32, 42 and 43 are dependent, either directly or indirectly, upon amended patentable independent claims 1, 8, and 24, and are therefore patentable for at least the same reasons as amended patentable independent claims 1, 8, and 24. The Applicants respectfully traverse this § 103 rejection.

The Office stated that Ramesh in combination with Agraharam teaches all of the elements of the dependent claims 11, 20, 32, 42 and 43. With respect to the subject matter of the dependent claims 11, 20, 32, 42 and 43, the Office conceded that Ramesh does not teach or suggest such subject matter, and instead, relied on Agraharam. In view of the assertions of the Office, the Applicants note the Office did not rely on Agraharam to (and further submit that Agraharam does not) teach the combination of elements of the independent claims 1, 8, and 24.

The Applicants submit that, as discussed above, Ramesh and Agraharam, alone or combined, do not disclose, teach, or suggest all of the claimed combination of elements of the independent claims 1, 8, and 24 including the claimed element of the “predetermined identifier.” Given that the dependent claims 11, 20, 32, 42 and 43 depend, directly or indirectly, from the independent claims 1, 8, and 24 they necessarily includes all the elements of the amended independent claims 1, 8, and 24. Because the combination of Ramesh and Agraharam does not teach or suggest all of the elements of

the amended independent claims 1, 8, and 24, the combination also fails to teach or suggest all the elements of the dependent claims 11, 20, 32, 42 and 43. The Applicants therefore submit dependent claims 11, 20, 32, 42 and 43 are not obvious under 35 U.S.C. § 103(a) over Ramesh in view of Agrapharam.

Based on the arguments presented above, withdrawal of the 35 U.S.C. 103(a) rejection of claims 11, 20, 32, 42 and 43 is respectfully requested.

CONCLUSION

In view of the foregoing, the Applicants submit all of the claims now pending in the application are definite under the provisions of 35 U.S.C. § 112, novel under the provisions of 35 U.S.C. § 102(e), and are not obvious under the provisions of 35 U.S.C. § 103. Consequently, the Applicants believe all claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes any unresolved issues still exist or if, in the opinion of the Examiner, a telephone conference would expedite passing the present application to issue, the Examiner is invited to call John P. Maldjian, Esq. at 732-275-3100 so appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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